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*Counsel for Ovation Services LLC, as agent for
FGMS Holdings LLC*

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE WESTERN DISTRICT OF TEXAS
EL PASO DIVISION**

<hr/> IN RE:	§	Chapter 13
	§	
CLIFFORD DWIGHT MCDANIEL, JR AND	§	Case No. 20-31128-HCM
PAULA JEAN MCDANIEL	§	
	§	
Debtors	§	

OVATION SERVICES LLC'S OBJECTION TO DEBTORS' CHAPTER 13 PLAN

Ovation Services LLC, as agent for FGMS Holdings LLC ("Ovation"), hereby files this Objection ("Objection") to the Chapter 13 Plan ("Plan") [Dkt. No.2] filed by the above-captioned debtors ("Debtors") in the above-referenced case, and states:

1. Ovation is the holder of one claim against the Debtors which is secured by tax liens collateralizing the Debtors' real estate. Ovation has filed its one proof of claim in this case. [Claim #2].
2. The Plan should not be confirmed because:

- a. Ovation's claim is not treated correctly in the Plan. The Plan should provide that Ovation has a secured claim for \$91,321.48 and that the interest rate is 15.9%
- b. The Plan does not explicitly provide for the payment of interest between the date of the filing of the Petition, October 27, 2020, and the date of confirmation of the Plan.
- c. The Plan fails to list Ovation as a holder of senior ad valorem tax liens.
- d. The Plan does not provide that if this case is dismissed or converted without completion of the plan, Ovation shall retain its liens and its lien priority to the extent recognized by applicable nonbankruptcy law, as required by 11 U.S.C. § 1325(a)(5)(B)(i)(II).
- e. The Plan lists Ovation's claim in the wrong category. Paragraph 7.7 refers to curing arrears on long term debt and mortgage arrears on the Debtors' principal residence. The Debtors seek to have the full amount of Ovation's claim paid through the Plan. Ovation's secured claim is an ad valorem tax lien and not a mortgage. Therefore, Ovation's claim should be listed in paragraph 7.8 of the Plan.
- f. The Plan fails to treat the full amount of Ovation's secured claims. Accordingly, the projected trustee disbursements are insufficient to amortize the amount of Ovation's claim with interest as required by 11 U.S.C. § 511.
- g. As the holder of senior ad valorem tax liens on the collateral, Ovation is oversecured, and the security documents provide that the Debtors will pay reasonable attorneys' fees, court costs and other costs associated with collecting

or enforcing the notes, including in a bankruptcy proceeding. The Plan fails to provide for Ovation's reasonable attorneys' fees, charges, costs, and post-petition interest pursuant to 11 U.S.C. § 506(b) and applicable state law.

3. Therefore, confirmation of the Plan should be denied.
4. Ovation identifies the following witnesses:
 - a. Clifford Dwight McDaniel, Jr.
 - b. Paula Jean McDaniel.
 - c. Coy Morgan, Vice President, Ovation Services LLC.
 - d. Any witness designated by any other party.
 - e. Any witness necessary for rebuttal.
5. Ovation identifies the following exhibits:
 - a. Ovation Services LLC's Proof of Claim, including the attached Exhibits;
 - i. Tax Lien Judgment.
 - ii. Tax Lien Judgment Payoff.
 - b. Any plan filed by the Debtors.
 - c. Any schedules or statements of financial affairs filed by the Debtors.
 - d. Any exhibit designated by any other party.
 - e. Any exhibit necessary for rebuttal.

WHEREFORE, PREMISES CONSIDERED, Ovation Services LLC, as agent for FGMS Holdings LLC respectfully prays that the Court deny confirmation of the Plan and grant all other just relief.

Submitted on December 24, 2020.

Respectfully submitted,

Harrison & Duncan PLLC

/s/ Mary Elizabeth Heard

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Holdings LLC*

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing OBJECTION TO DEBTORS' CHAPTER 13 PLAN was served on December 24, 2020 via the Court's electronic case filing (ECF) system on all parties receiving ECF notices in these cases and via first class U.S. mail to the parties listed below.

/s/ Mary Elizabeth Heard

MARY ELIZABETH HEARD

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